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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210462
Party	Defendant Stichting Musicians Without Borders
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Attachments	Answer to Opposition Musicians without Borders.pdf(20901 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

<p>BUREAU INTERNATIONAL DE MÉDECINS SANS FRONTIÈRES</p> <p style="text-align: center;">and</p> <p>MÉDECINS SANS FRONTIÈRES USA, INC.</p> <p style="text-align: center;">Opposers,</p> <p>v.</p> <p>STICHTING MUSICIANS WITHOUT BORDERS</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.</p> <p>App. No. 85/051,901</p> <p style="text-align: center;"></p> <p>Mark:</p> <p>Filed: June 1, 2010</p>
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**APPLICANT’S STICHTING MUSICIANS WITHOUT BORDERS ANSWER TO
NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES**

Applicant Stichting Musicians Without Borders (“Applicant”) hereby responds to the Notice of Opposition (“Notice”) of Opposers Bureau International de Médecins Sans Frontières (“MSF International”) and Médecins Sans Frontières USA, Inc. (“MSF USA”) as set forth below.

In response to the unnumbered introductory paragraphs of the Opposition, Applicant denies that Opposer will be damaged by registration of the mark MUSICIANS WITHOUT BORDERS & Design and denies that the word mark MUSICIANS WITHOUT BORDERS is the subject of U.S. App. Ser. No. 85/051,901. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in unnumbered introductory

paragraphs of the Opposition and therefore denies those allegations. Applicant responds to the separately numbered paragraphs of the Opposition as follows:

1. Applicant admits that the United States Patent and Trademark Office (USPTO) public records available at www.uspto.gov indicate that MSF International owns U. S. Registration No. 2,290,906 in Class 42 for the mark DOCTORS WITHOUT BORDERS in connection with “charitable services, namely, providing emergency medical relief and assisting victims of disasters and conflicts worldwide and promoting public awareness of populations at risk”. Applicant further admits that the USPTO public records indicate that affidavits under Section 8 and Section 15 of the Lanham Act were filed in connection with the Registration No. 2,290,906 on March 31, 2005 and October 6, 2009. Applicant further admits that the USPTO public records indicate that a Notice of Acceptance and Acknowledgement issued on August 2, 2006 and a Notice of Acceptance and Renewal issued on October 7, 2009 in connection with these affidavits, respectively. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in paragraph 1 and therefore denies those allegations.
2. Applicant admits that the USPTO public records indicate that MSF International owns U.S. Registration No. 3,032,188 for the mark DOCTORS WITHOUT BORDERS in connection with “recruitment services for medical professionals to participate in international relief projects” in International Class 35 and “charitable fund raising services for international relief projects” in International Class 36. Applicant further admits that the USPTO public records indicate that the DOCTORS WITHOUT BORDERS mark was first used at least as early as January 1, 1971 and first used in commerce in the United States at least as early as July 1, 1990, that the mark registered

on December 20, 2005, that affidavits under Section 8 and Section 15 of the Lanham Act were filed with the USPTO on November 16, 2001, and that the USPTO issued a Notice of Acceptance of such affidavits on January 4, 2012. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in paragraph 2 and therefore denies those allegations.

3. Applicant admits that the USPTO public records indicate that MSF International owns U.S. Registration Nos. 3,028,779 in Class 35; 3,028,780 in Class 36 and 3,028,781 in Class 44 and that the marks in the registrations were first used in 1971 and first used in commerce in the United States in 2001. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in paragraph 3 and therefore denies those allegations.
4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 4 and therefore denies those allegations.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 5 and therefore denies those allegations.
6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 6 and therefore denies those allegations.
7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 7 and therefore denies those allegations.
8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 8 and therefore denies those allegations.
9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 9 and therefore denies those allegations.

10. Applicant admits that on June 1, 2010, Applicant filed trademark application Serial No. 85/051,901 with the USPTO in International Class 9 for “Digital music downloadable provided from a computer database or the internet; music recordings; pre-recorded music videos; educational materials in the form of computer programmes for teaching music”, International Class 16 for “Music books; music note books; sheet music; printed publications in the field of music; educational materials in printed form”, International Class 25 for “[c]lothing, headgear”, International Class 35 for “Retail store services and online retail store services in the field of music”, International Class 36 for “Charitable fundraising”, International Class 38 for “Music broadcasting; providing access to digital music web sites on the internet”, International Class 41 for “Education; providing of training; entertainment; cultural activities; arranging and conducting of colloquiums, conferences, congresses, seminars, symposiums, and workshops; arranging of music performances; composition of music for others; consultancy on film and music production; digital music provided from the internet; education services in the form of music television programmes; education services relating to music; entertainment services provided by a music group; live music performances; music competition services; music festival services; music library services; music publishing and recording; organisation and arrangement of music concerts; organizing talent contests and music and television award events; production of film, video film and music programmes; production of sound and music recordings; providing satellite delivered and cable delivered musical entertainment, music and musical sound recordings; teaching of music; arranging of music festivals for cultural, training, entertainment or educational purposes; publication of educational materials; provision of musical instruments and music books;

recreational and music camps”, International Class 45 for “Exploitation of music production”. Applicant admits that Exhibit H appears to be TESS and TSDR printouts from the USPTO website dated April 29, 2013 and that such documents speak for themselves. Otherwise denied.

11. Applicant admits that it submitted a copy of its Certificate of Registration for its Community Trade Mark for the MUSICIANS WITHOUT BORDERS & Design Mark in connection with its U.S. application, Serial No. 85/051,901 for the MUSICIANS WITHOUT BORDERS & Design Mark and that a copy of its U.S. application is attached as Exhibit I. Otherwise denied.
12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 12 and therefore denies those allegations.
13. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations asserted in paragraph 13 and therefore denies those allegations.
14. Applicant admits that Applicant’s website is located at www.musicianswithoutborders.org. Applicant also admits that the document attached at Exhibit K to the Notice of Opposition appears to be a print-out of Applicant’s website from April 29, 2013 and that the document speaks for itself. Otherwise denied.
15. Applicant admits that Applicant’s website provides donation information. Applicant denies that it seeks donations through house concerts. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in paragraph 15 and therefore denies those allegations.
16. Applicant admits the first three sentences in paragraph 16. Applicant also admits that the parties were unable to resolve the matter amicably prior to the filing of this Opposition.

Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 16 and therefore denies those allegations.

17. Applicant denies the allegations in paragraph 17.

18. Applicant denies the allegations in paragraph 18.

19. Applicant denies the allegations in paragraph 19.

20. Applicant denies the allegations in paragraph 20.

21. Applicant denies the allegations in paragraph 21.

AFFIRMATIVE DEFENSES

First Affirmative Defense

As applied to the respective goods and services of Opposer and Applicant, the marks are not confusingly similar.

Second Affirmative Defense

Opposer's contentions in the Notice of Opposition are or may be barred by estoppel and/or unclean hands.

Third Affirmative Defense

Opposer's contentions in the Notice of Opposition are or may be barred by laches.

Fourth Affirmative Defense

Opposer's contentions in the Notice of Opposition are or may be barred by waiver and/or acquiescence.

Fifth Affirmative Defense

Opposer is not damaged by registration of U.S. App. Ser. No. 85/051,901.

CONCLUSION

Based on the foregoing, Applicant prays that the Notice of Opposition be dismissed.

Respectfully submitted,

HOGAN LOVELLS US LLP

Dated: December 23, 2013

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of December, 2013, a complete and accurate copy of the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** was served by first-class mail, postage prepaid, on Counsel for Opposers at the following address:

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